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7 *Attorneys for Complainant*

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 **In the Matter of the Accusation Against:**

Case No. 800-2017-035869

12 **Ilona Sylvester, M.D.**

13
14 **Physician's and Surgeon's Certificate**
No. A 55316,

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15
16 **Respondent.**

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
22 Board of California. She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Tan N. Tran,
24 Deputy Attorney General.

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2. Respondent Ilona Sylvester, M.D. ("Respondent") is represented in this proceeding by attorney Adam B. Brown, Esq., whose address is: 3848 W. Carson Street, Torrance, California, 90503.

3. On or about November 29, 1995, the Medical Board of California issued Physician's and Surgeon's Certificate No. A55316 to Ilona Sylvester, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-035869 and will expire on September 30, 2019, unless renewed:

JURISDICTION

4. Accusation No. 800-2017-035869 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on or about March 1, 2019. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-035869 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-035869. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent does not contest that at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 800-2017-035869, and that she has thereby subjected her Physician's and Surgeon's Certificate No. A 55316 to disciplinary action.

10. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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1 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
3 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

4 14. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 55316 issued
9 to Ilona Sylvester, M.D. (Respondent) is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for three (3) years on the following terms and conditions.

11 1. **CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO**
12 **RECORDS AND INVENTORIES.** Respondent shall maintain a record of all controlled
13 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
14 recommendation or approval which enables a patient or patient's primary caregiver to possess or
15 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
16 and Safety Code section 11362.5, during probation, showing all the following: 1) the name and
17 address of patient; 2) the date; 3) the character and quantity of controlled substances involved;
18 and 4) the indications and diagnosis for which the controlled substances were furnished.

19 Respondent shall keep these records in a separate file or ledger, in chronological order. All
20 records and any inventories of controlled substances shall be available for immediate inspection
21 and copying on the premises by the Board or its designee at all times during business hours and
22 shall be retained for the entire term of probation.

23 2. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the effective
24 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the
25 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
26 University of California, San Diego School of Medicine (Program), approved in advance by the
27 Board or its designee. Respondent shall provide the program with any information and
28 documents that the Program may deem pertinent. Respondent shall participate in and

1 successfully complete the classroom component of the course not later than six (6) months after
2 Respondent's initial enrollment. Respondent shall successfully complete any other component of
3 the course within one (1) year of enrollment. The prescribing practices course shall be at
4 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
5 requirements for renewal of licensure.

6 A prescribing practices course taken after the acts that gave rise to the charges in the
7 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
8 or its designee, be accepted towards the fulfillment of this condition if the course would have
9 been approved by the Board or its designee had the course been taken after the effective date of
10 this Decision.

11 Respondent shall submit a certification of successful completion to the Board or its
12 designee not later than 15 calendar days after successfully completing the course, or not later than
13 15 calendar days after the effective date of the Decision, whichever is later.

14 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
15 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to
16 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education
17 Program, University of California, San Diego School of Medicine (Program), approved in
18 advance by the Board or its designee. Respondent shall provide the program with any
19 information and documents that the Program may deem pertinent. Respondent shall participate in
20 and successfully complete the classroom component of the course not later than six (6) months
21 after Respondent's initial enrollment. Respondent shall successfully complete any other
22 component of the course within one (1) year of enrollment. The medical record keeping course
23 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education
24 (CME) requirements for renewal of licensure.

25 A medical record keeping course taken after the acts that gave rise to the charges in the
26 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
27 or its designee, be accepted towards the fulfillment of this condition if the course would have
28 been approved by the Board or its designee had the course been taken after the effective date of

1 this Decision.

2 Respondent shall submit a certification of successful completion to the Board or its
3 designee not later than 15 calendar days after successfully completing the course, or not later than
4 15 calendar days after the effective date of the Decision, whichever is later.

5 4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
6 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
7 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
8 licenses are valid and in good standing, and who are preferably American Board of Medical
9 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
10 relationship with Respondent, or other relationship that could reasonably be expected to
11 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
12 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
13 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

14 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
15 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
16 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
17 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
18 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
19 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
20 signed statement for approval by the Board or its designee.

21 Within 60 calendar days of the effective date of this Decision, and continuing throughout
22 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
23 make all records available for immediate inspection and copying on the premises by the monitor
24 at all times during business hours and shall retain the records for the entire term of probation.

25 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
26 date of this Decision, Respondent shall receive a notification from the Board or its designee to
27 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
28 shall cease the practice of medicine until a monitor is approved to provide monitoring

1 responsibility.

2 The monitor(s) shall submit a quarterly written report to the Board or its designee which
3 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
4 are within the standards of practice of medicine, and whether Respondent is practicing medicine
5 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
6 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
7 preceding quarter.

8 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
9 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
10 name and qualifications of a replacement monitor who will be assuming that responsibility within
11 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
12 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
13 notification from the Board or its designee to cease the practice of medicine within three (3)
14 calendar days after being so notified Respondent shall cease the practice of medicine until a
15 replacement monitor is approved and assumes monitoring responsibility.

16 In lieu of a monitor, Respondent may participate in a professional enhancement program
17 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
18 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
19 chart review, semi-annual practice assessment, and semi-annual review of professional growth
20 and education. Respondent shall participate in the professional enhancement program at
21 Respondent's expense during the term of probation.

22 5. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
23 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment
24 program approved in advance by the Board or its designee. Respondent shall successfully
25 complete the program not later than six (6) months after Respondent's initial enrollment unless
26 the Board or its designee agrees in writing to an extension of that time.

27 The program shall consist of a comprehensive assessment of Respondent's physical and
28 mental health and the six general domains of clinical competence as defined by the Accreditation

1 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
2 Respondent's current or intended area of practice. The program shall take into account data
3 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
4 Accusation(s), and any other information that the Board or its designee deems relevant. The
5 program shall require Respondent's on-site participation for a minimum of three (3) and no more
6 than five (5) days as determined by the program for the assessment and clinical education
7 evaluation. Respondent shall pay all expenses associated with the clinical competence
8 assessment program.

9 At the end of the evaluation, the program will submit a report to the Board or its designee
10 which unequivocally states whether the Respondent has demonstrated the ability to practice
11 safely and independently. Based on Respondent's performance on the clinical competence
12 assessment, the program will advise the Board or its designee of its recommendation(s) for the
13 scope and length of any additional educational or clinical training, evaluation or treatment for any
14 medical condition or psychological condition, or anything else affecting Respondent's practice of
15 medicine. Respondent shall comply with the program's recommendations.

16 Determination as to whether Respondent successfully completed the clinical competence
17 assessment program is solely within the program's jurisdiction.

18 If Respondent fails to enroll, participate in, or successfully complete the clinical
19 competence assessment program within the designated time period, Respondent shall receive a
20 notification from the Board or its designee to cease the practice of medicine within three (3)
21 calendar days after being so notified. The Respondent shall not resume the practice of medicine
22 until enrollment or participation in the outstanding portions of the clinical competence assessment
23 program have been completed. If the Respondent did not successfully complete the clinical
24 competence assessment program, the Respondent shall not resume the practice of medicine until a
25 final decision has been rendered on the accusation and/or a petition to revoke probation. The
26 cessation of practice shall not apply to the reduction of the probationary time period.

27 STANDARD CONDITIONS

28 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the

Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is prohibited from supervising physician assistants.

8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

1 Place of Practice

2 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
3 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
4 facility.

5 License Renewal

6 Respondent shall maintain a current and renewed California physician's and surgeon's
7 license.

8 Travel or Residence Outside California

9 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
10 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
11 (30) calendar days.

12 In the event Respondent should leave the State of California to reside or to practice
13 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
14 departure and return.

15 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
16 available in person upon request for interviews either at Respondent's place of business or at the
17 probation unit office, with or without prior notice throughout the term of probation.

18 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
19 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
20 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
21 defined as any period of time Respondent is not practicing medicine in California as defined in
22 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
23 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
24 time spent in an intensive training program which has been approved by the Board or its designee
25 shall not be considered non-practice. Practicing medicine in another state of the United States or
26 Federal jurisdiction while on probation with the medical licensing authority of that state or
27 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
28 not be considered as a period of non-practice.

1 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
2 months, Respondent shall successfully complete a clinical training program that meets the criteria
3 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
4 Disciplinary Guidelines" prior to resuming the practice of medicine.

5 Respondent's period of non-practice while on probation shall not exceed two (2) years.

6 Periods of non-practice will not apply to the reduction of the probationary term.

7 Periods of non-practice will relieve Respondent of the responsibility to comply with the
8 probationary terms and conditions with the exception of this condition and the following terms
9 and conditions of probation: Obey All Laws; and General Probation Requirements.

10 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
11 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
12 completion of probation. Upon successful completion of probation, Respondent's certificate shall
13 be fully restored.

14 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
15 of probation is a violation of probation. If Respondent violates probation in any respect, the
16 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
17 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
18 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
19 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
20 be extended until the matter is final.

21 15. LICENSE SURRENDER. Following the effective date of this Decision, if
22 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
23 the terms and conditions of probation, Respondent may request to surrender his or her license.
24 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
25 determining whether or not to grant the request, or to take any other action deemed appropriate
26 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
27 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
28 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject

1 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
2 application shall be treated as a petition for reinstatement of a revoked certificate.

3 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
4 with probation monitoring each and every year of probation, as designated by the Board, which
5 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
6 California and delivered to the Board or its designee no later than January 31 of each calendar
7 year.

8
9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Adam B. Brown, Esq. I understand the stipulation and the effect it
12 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
13 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
14 Decision and Order of the Medical Board of California.

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16 DATED: 6/19/2019

Ilona Sylvester
Ilona Sylvester, M.D.
Respondent

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20 I have read and fully discussed with Respondent the terms and conditions and other matters
21 contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and
22 content.

23 DATED: 6-24-19

Adam B. Brown
Adam B. Brown, Esq.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated:

6/24/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General



TAN N. TRAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-035869

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 TAN N. TRAN
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *March 1 20 19*
BY *[Signature]* ANALYST

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2017-035869

Ilona Sylvester, M.D.
816 Pamela Wood Street
Thousand Oaks, CA 91320-4156

ACCUSATION

Physician's and Surgeon's Certificate
No. A55316 ,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about November 29, 1995, the Medical Board issued Physician's and Surgeon's Certificate Number A55316 to Ilona Sylvester, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the board deems proper.

6. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 "(b) Gross negligence.

4 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from
6 the applicable standard of care shall constitute repeated negligent acts.

7 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a
11 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
12 applicable standard of care, each departure constitutes a separate and distinct breach of the
13 standard of care.

14 "(d) Incompetence.

15 "(e) The commission of any act involving dishonesty or corruption that is substantially
16 related to the qualifications, functions, or duties of a physician and surgeon.

17 "(f) Any action or conduct which would have warranted the denial of a certificate.

18 "(g) The practice of medicine from this state into another state or country without meeting
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
20 apply to this subdivision. This subdivision shall become operative upon the implementation of
21 the proposed registration program described in Section 2052.5.

22 "(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder
24 who is the subject of an investigation by the board."

25 7. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain
26 adequate and accurate records relating to the provision of services to their patients constitutes
27 unprofessional conduct."

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent is subject to disciplinary action under section 2234, subdivision (b), of the Code for the commission of acts or omissions involving gross negligence in the care and treatment of Patient 1.¹ The circumstances are as follows:

Patient 1

9. Patient 1 was a forty-seven year old male who treated with Respondent on at least three occasions (February 14, 2013, February 22, 2013, and March 7, 2013).² Patient 1 died on March 14, 2013 from an acute mixed drug intoxication (Ethanol, Trazodone, Oxycodone, and Alprazolam).

10. During the first visit on February 14, 2013, Respondent saw Patient 1, who had various maladies, including hepatitis, hypertension, hyperlipidemia, as well as anxiety and depression. During this first visit, Respondent prescribed controlled medications including Citalopram (an antidepressant, and a group of drugs called selective serotonin reuptake inhibitor (SSRI)),³ and Alprazolam (a.k.a Xanax, a benzodiazepine used to treat anxiety disorders) 0.5 mg to Patient 1. During the second visit on February 22, 2013, Respondent increased the dosage of Alprazolam to 1 mg, since per Respondent's notes, Patient 1's anxiety had "improved but still not controlled...". During the third and final office visit on March 7, 2013, Patient 1 visited Respondent for a hepatitis follow-up. During this final visit, Respondent prescribed Oxycodone (a Schedule II opioid medication used to treat pain) to Patient 1.⁴

11. There was inadequate documentation of Patient 1's mood disorders, chronic pain, and social history (e.g. alcohol and substance use). Respondent's documentation into the history of Patient 1's present illness, appropriate physical examinations, and medical decision-making was

¹ The patient is identified by number to protect his privacy.

² These dates are based on the records which were available for review.

³ While Respondent did document that Patient 1 did not have any suicidal ideation on the first visit, there was no documentation that Respondent followed up whether Patient 1 had any suicidal or homicidal ideation on the following visits. This should have been assessed by Respondent, when seeing Patient 1 in follow-up visits, after the start of an SSRI.

⁴ Respondent prescribed Oxycodone to Patient 1 for "neck pain," despite pain scales documenting that Patient 1 had "0" pain on visits dated, February 22, 2013, and March 7, 2013.

1 lacking. Assessing if Patient 1 had prior treatment for his mood disorders with medication(s), or
2 cognitive behavioral therapy was never obtained. Previous diagnostic evaluations performed and
3 results thereof, as well as previous treatments attempted and the results thereof were not
4 documented.

5 12. Respondent's increasing the dosage of Patient 1's Alprazolam prior to adding
6 Oxycodone, as well as her failing to adequately assess Patient 1's depression, as outlined above,
7 constitutes an extreme departure from the standard of care.

8 SECOND CAUSE FOR DISCIPLINE

9 (Repeated Negligent Acts)

10 13. Respondent is subject to disciplinary action under section 2234, subdivision (c), of
11 the Code in that she committed repeated negligent acts in her care of Patient 1 above. The
12 circumstances are as follows:

13 14. The facts and circumstances in paragraphs 9 through 12, above, are incorporated by
14 reference as if set forth in full herein.

15 15. Respondent also committed repeated negligent acts in her care of Patient 1 above.
16 The circumstances are as follows:

17 Patient 1

18 16. Respondent departed from the standard of care by prescribing Citalopram beyond the
19 FDA recommended starting dosage, to Patient 1.

20 17. Respondent also failed to adequately document her medical decision-making
21 regarding her use of benzodiazepines to treat Patient 1's anxiety and depressive disorder, as well
22 as failing to document any informed consent discussions between herself and Patient 1 regarding
23 the risks and benefits of taking the medications prescribed.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Inadequate Records)**


3 18. By reason of the facts and allegations set forth in the First and Second Causes for
4 Discipline above, Respondent is subject to disciplinary action under section 2266 of the Code, in
5 that Respondent failed to maintain adequate and accurate records of her care and treatment of
6 Patient 1.

7
8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Medical Board of California issue a decision:

- 11 1. Revoking or suspending Physician's and Surgeon's Certificate Number A55316,
12 issued to Ilona Sylvester, M.D.;
- 13 2. Revoking, suspending or denying approval of Ilona Sylvester, M.D.'s authority to
14 supervise physician assistants and advanced practice nurses;
- 15 3. Ordering Ilona Sylvester, M.D., if placed on probation, to pay the Board the costs of
16 probation monitoring; and
- 17 4. Taking such other and further action as deemed necessary and proper.

18
19 DATED: March 1, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant